

SSB 5145 - H AMD TO H COMM AMD (5145-S AMH NREP H2901.1)
By Representative Orcutt

Strike everything after the enacting clause and insert the following:

1 "NEW SECTION. **Sec. 1.** It is the intent of the legislature to
2 establish a boating safety education program for persons convicted
3 of a recreational boating safety violation to reduce accidents and
4 increase the enjoyment of boating by all operators of all
5 recreational vessels on the waters of this state.

6 **Sec. 2.** RCW 79A.60.010 and 2003 c 39 s 45 are each amended to
7 read as follows:

8 Unless the context clearly requires otherwise, the definitions
9 in this section apply throughout this chapter.

10 (1) "Accredited course" means a mandatory course of instruction
11 on boating safety education that has been approved by the
12 commission.

13 (2) "Boat wastes" includes, but is not limited to, sewage,
14 garbage, marine debris, plastics, contaminated bilge water,
15 cleaning solvents, paint scrapings, or discarded petroleum products
16 associated with the use of vessels.

17 (~~(+2)~~) (3) "Boater" means any person on a vessel on waters of
18 the state of Washington.

19 (~~(+3)~~) (4) "Boater education card" means a card issued to a
20 person who has successfully completed a boating safety education
21 test and has paid the registration fee for a serial number record
22 to be maintained in the commission's data base.

23 (5) "Boating educator" means a person providing an accredited
24 course.

25 (6) "Carrying passengers for hire" means carrying passengers in
26 a vessel on waters of the state for valuable consideration, whether
27 given directly or indirectly or received by the owner, agent,
28 operator, or other person having an interest in the vessel. This

1 shall not include trips where expenses for food, transportation, or
2 incidentals are shared by participants on an even basis. Anyone
3 receiving compensation for skills or money for amortization of
4 equipment and carrying passengers shall be considered to be
5 carrying passengers for hire on waters of the state.

6 ~~((+4))~~ (7) "Certificate of accomplishment" means a form of
7 certificate approved by the commission and issued by a boating
8 educator to a person who has successfully completed an accredited
9 course.

10 (8) "Commission" means the state parks and recreation
11 commission.

12 ~~((+5))~~ (9) "Darkness" means that period between sunset and
13 sunrise.

14 ~~((+6))~~ (10) "Environmentally sensitive area" means a
15 restricted body of water where discharge of untreated sewage from
16 boats is especially detrimental because of limited flushing,
17 shallow water, commercial or recreational shellfish, swimming
18 areas, diversity of species, the absence of other pollution
19 sources, or other characteristics.

20 ~~((+7))~~ (11) "Guide" means any individual, including but not
21 limited to subcontractors and independent contractors, engaged for
22 compensation or other consideration by a whitewater river outfitter
23 for the purpose of operating vessels. A person licensed under RCW
24 77.65.480 or 77.65.440 and acting as a fishing guide is not
25 considered a guide for the purposes of this chapter.

26 ~~((+8))~~ (12) "Marina" means a facility providing boat moorage
27 space, fuel, or commercial services. Commercial services include
28 but are not limited to overnight or live-aboard boating
29 accommodations.

30 ~~((+9))~~ (13) "Motor driven boats and vessels" means all boats
31 and vessels which are self propelled.

32 ~~((+10))~~ (14) "Motor vessel safety operating and equipment
33 checklist" means a printed list of the safety requirements for a
34 vessel with a motor installed or attached to the vessel being
35 rented, chartered, or leased and meeting minimum requirements
36 adopted by the commission in accordance with section 3 of this act.

37 (15) "Muffler" or "muffler system" means a sound suppression
38 device or system, including an underwater exhaust system, designed
39 and installed to abate the sound of exhaust gases emitted from an

1 internal combustion engine and that prevents excessive or unusual
2 noise.

3 ~~((+11))~~ (16) "Operate" means to steer, direct, or otherwise
4 have physical control of a vessel that is underway.

5 ~~((+12))~~ (17) "Operator" means an individual who steers,
6 directs, or otherwise has physical control of a vessel that is
7 underway or exercises actual authority to control the person at the
8 helm.

9 ~~((+13))~~ (18) "Observer" means the individual riding in a
10 vessel who is responsible for observing a water skier at all times.

11 ~~((+14))~~ (19) "Owner" means a person who has a lawful right to
12 possession of a vessel by purchase, exchange, gift, lease,
13 inheritance, or legal action whether or not the vessel is subject
14 to a security interest.

15 ~~((+15))~~ (20) "Person" means any individual, sole
16 proprietorship, partnership, corporation, nonprofit corporation or
17 organization, limited liability company, firm, association, or
18 other legal entity located within or outside this state.

19 ~~((+16))~~ (21) "Personal flotation device" means a buoyancy
20 device, life preserver, buoyant vest, ring buoy, or buoy cushion
21 that is designed to float a person in the water and that is
22 approved by the commission.

23 ~~((+17))~~ (22) "Personal watercraft" means a vessel of less than
24 sixteen feet that uses a motor powering a water jet pump, as its
25 primary source of motive power and that is designed to be operated
26 by a person sitting, standing, or kneeling on, or being towed
27 behind the vessel, rather than in the conventional manner of
28 sitting or standing inside the vessel.

29 ~~((+18))~~ (23) "Polluted area" means a body of water used by
30 boaters that is contaminated by boat wastes at unacceptable levels,
31 based on applicable water quality and shellfish standards.

32 ~~((+19))~~ (24) "Public entities" means all elected or appointed
33 bodies, including tribal governments, responsible for collecting
34 and spending public funds.

35 ~~((+20))~~ (25) "Reckless" or "recklessly" means acting
36 carelessly and heedlessly in a willful and wanton disregard of the
37 rights, safety, or property of another.

38 ~~((+21))~~ (26) "Sewage pumpout or dump unit" means:

1 (a) A receiving chamber or tank designed to receive vessel
2 sewage from a "porta-potty" or a portable container; and

3 (b) A stationary or portable mechanical device on land, a dock,
4 pier, float, barge, vessel, or other location convenient to
5 boaters, designed to remove sewage waste from holding tanks on
6 vessels.

7 ~~((+22))~~ (27) "Underway" means that a vessel is not at anchor,
8 or made fast to the shore, or aground.

9 ~~((+23))~~ (28) "Vessel" includes every description of watercraft
10 on the water, other than a seaplane, used or capable of being used
11 as a means of transportation on the water. However, it does not
12 include inner tubes, air mattresses, sailboards, and small rafts or
13 flotation devices or toys customarily used by swimmers.

14 ~~((+24))~~ (29) "Water skiing" means the physical act of being
15 towed behind a vessel on, but not limited to, any skis, aquaplane,
16 kneeboard, tube, or any other similar device.

17 ~~((+25))~~ (30) "Waters of the state" means any waters within the
18 territorial limits of Washington state.

19 ~~((+26))~~ (31) "Whitewater river outfitter" means any person who
20 is advertising to carry or carries passengers for hire on any
21 whitewater river of the state, but does not include any person
22 whose only service on a given trip is providing instruction in
23 canoeing or kayaking skills.

24 ~~((+27))~~ (32) "Whitewater rivers of the state" means those
25 rivers and streams, or parts thereof, within the boundaries of the
26 state as listed in RCW 79A.60.470 or as designated by the
27 commission under RCW 79A.60.495.

28 NEW SECTION. Sec. 3. A new section is added to chapter 79A.60
29 RCW to read as follows:

30 (1) The commission shall establish and implement by rule a
31 program to provide required recreational boating safety education
32 for persons convicted of a boating safety violation under chapter
33 79A.60. To obtain a boater education card, a boater shall provide
34 a certificate of accomplishment issued by a boating educator for
35 taking and passing an accredited boating safety education course,
36 or pass an equivalency exam, or provide proof of completion of a
37 course that meets the standard adopted by the commission.

1 (2) As part of the boating safety education program, the
2 commission shall:

3 (a) Establish a program for required boater safety education
4 for any recreational boater convicted of a boating safety violation
5 under chapter 79A.60.020;

6 (b) Establish a minimum standard of boating safety education
7 accomplishment. The standard must be consistent with the
8 applicable standard established by the national association of
9 state boating law administrators;

10 (c) Adopt minimum standards for boating safety education course
11 of instruction and examination that ensures compliance with the
12 national association of state boating law administrators minimum
13 standards;

14 (d) Approve and provide accreditation to boating safety
15 education courses operated by volunteers, or commercial or
16 nonprofit organizations, including, but not limited to, courses
17 given by the United States coast guard auxiliary and the United
18 States power squadrons;

19 (e) Develop an equivalency examination that may be taken as an
20 alternative to the boating safety education course;

21 (f) Establish a fee of ten dollars for the boater education
22 card to fund all commission activities related to the boating
23 safety education program created by this act, including the initial
24 costs of developing the program. Any surplus funds resulting from
25 the fees received shall be distributed by the commission as grants
26 to local marine law enforcement programs approved by the commission
27 as provided in RCW 88.02.040;

28 (g) Establish a fee for the replacement of the boater education
29 card that covers the cost of replacement;

30 (h) Consider and evaluate public agency and commercial
31 opportunities to assist in program administration with the intent
32 to keep administrative costs to a minimum;

33 (i) Approve and provide accreditation to boating safety
34 education courses offered online; and

35 (j) Provide a report to the legislature by January 1, 2008, on
36 its progress of implementation of the mandatory education program
37 for persons convicted of a boating safety violation.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 79A.60
2 RCW to read as follows:

3 (1) No person convicted of a boating safety violation under
4 chapter 79A.60 shall operate or permit the operation of motor
5 driven boats and vessels with a mechanical power of fifteen
6 horsepower or greater unless the person has in his or her
7 possession a boater education card.

8 (2) Failure to possess a boater education card required by this
9 section is an infraction under chapter 7.84 RCW.

10 NEW SECTION. **Sec. 5.** A new section is added to chapter 79A.60
11 RCW to read as follows:

12 The boating safety education certification account is created
13 in the custody of the state treasurer. All receipts from fees
14 collected for the issuance of a boater education card shall be
15 deposited in the account and shall be used only for the
16 administration of sections 3 and 4 of this act. Only the state
17 parks and recreation commission may authorize expenditures from the
18 account. The account is subject to allotment procedures under
19 chapter 43.88 RCW, but an appropriation is not required for
20 expenditures."

Correct the title.

EFFECT: Removes requirements for boating safety education for
all boaters phased in by age and only requires boater safety
education for boaters convicted of a boating safety violation
under Chapter 79A.60 RCW, Regulation of Recreational Vessels.